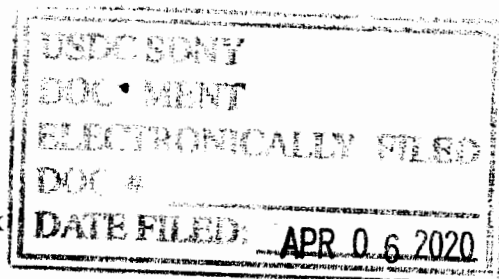


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----X
LINDA J. MANN,

Plaintiff,

-against-

NANCY A. BERRYHILL, *Acting Commissioner of
Social Security,*

Defendant.
-----X

MEMORANDUM DECISION
AND ORDER

17 Civ. 2306 (GBD) (KNF)

GEORGE B. DANIELS, United States District Judge:

On March 30, 2017, Plaintiff Linda J. Mann commenced this action against Defendant Nancy A. Berryhill, Acting Commissioner of Social Security, pursuant to Section 205 (g) of the Social Security Act, 42 U.S.C. § 405(g), seeking review of an administrative law judge's decision denying Plaintiff disability insurance benefits. (Compl., ECF No. 1.) Plaintiff moved for judgment on the pleadings pursuant to Federal Rule of Civil Procedure 12(c) on September 29, 2017. (Notice of Mot. for J. on the Pleadings, ECF No. 14.) About two months later, a Stipulation and Order was entered, directing the case to be remanded to the Commissioner for further administrative proceedings followed by the judgment. (Stip. and Order dated Nov. 27, 2017, ECF No. 16.) On January 3, 2018, a Stipulation and Order was entered that the Commissioner will pay \$3,700 in attorney's fees and expenses and \$400 in costs, in full satisfaction of Plaintiff's application for attorney's fees, as well as expenses and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412. (Stip. and Order dated Jan. 3, 2018, ECF No. 18.) Plaintiff now moves for an award of attorney's fees of \$21,597.50, which she contends represents 25% of the retroactive benefits awarded the plaintiff upon remand pursuant to 42 U.S.C. § 406(b). (Notice of Mot. for Att'y's Fees, ECF No. 26.)

Before this Court is Magistrate Judge Kevin N. Fox's October 23, 2019 Report and Recommendation (the "Report"), recommending that Plaintiff's unopposed motion for attorney's fees be granted.¹ (Report, ECF No. 31, at 6.) Magistrate Judge Fox advised the parties that, pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b), failure to file timely objections to the Report would constitute a waiver of those objections on appeal. (*Id.* at 7.) No objections have been filed. Having reviewed the Report for clear error, this Court ADOPTS the Report in full.

I. LEGAL STANDARD

A court "may accept, reject, or modify, in whole or in part, the findings or recommendations" set forth in a magistrate judge's report. 28 U.S.C. § 636(b)(1)(C). A magistrate judge's report to which no objections are made is reviewed for clear error. *See Edwards v. Fischer*, 414 F. Supp. 2d 342, 346–47 (S.D.N.Y. 2006) (citations omitted). Clear error is present when, "upon review of the entire record, [the court is] left with the definite and firm conviction that a mistake has been committed." *United States v. Snow*, 462 F.3d 55, 72 (2d Cir. 2006) (citation and internal quotation marks omitted).

II. THE REPORT CORRECTLY CALCULATES PLAINTIFF'S ATTORNEY'S FEES

Magistrate Judge Fox conducted a thorough and careful inquest and issued the Report, recommending that this Court award attorney's fees in the amount of \$21,597.50 under 42 U.S.C. § 406(b). (Report at 6.) This Court has reviewed the Report, and finds no error, clear or otherwise. Accordingly, this Court adopts Magistrate Judge Fox's recommended attorney's fees for the reasons stated in the Report.

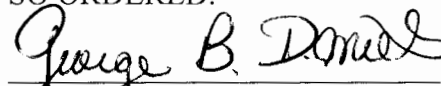
¹ The relevant factual and procedural background is set forth in greater detail in the Report and is incorporated by reference herein.

III. CONCLUSION

Magistrate Judge Fox's Report is ADOPTED. Plaintiff's motion for attorney's fees, (ECF No. 26), is GRANTED. Defendant is ordered to pay Plaintiff \$21,597.50 in attorney's fees. The Clerk of the Court is directed to close the motion accordingly.

Dated: New York, New York
April 6, 2019

SO ORDERED.



GEORGE B. DANIELS
United States District Judge